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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,037	10/23/2003	John Kevin Liles	2003-0131	6442
7590	03/19/2008		EXAMINER	
Robert F. Frijouf Frijouf, Rust & Pyle, P.A. 201 East Davis Boulevard Tampa, FL 33606			MARSH, STEVEN M	
			ART UNIT	PAPER NUMBER
			3632	
			MAIL DATE	DELIVERY MODE
			03/19/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/692,037	LILES, JOHN KEVIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	STEVEN M. MARSH	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 December 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 39,42 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 39 and 42 is/are allowed.
- 6) Claim(s) 46 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

This is the fifth office action for U.S. Application 10/692,037 for a Wire Support and Method of Making filed by John Kevin Liles on October 23, 2003. Claims 39, 42, and 45 are pending

### ***Claim Rejections - 35 USC § 103***

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rieman in view of U.S. Patent 4,913,389 to McCracken. Rieman discloses a wire support with identical first and second one-piece wires (10 and 11). Each of the wires has a lower section (12 and 13), an upper section (15), and an intermediate section (between 12 and 14). The wires are twisted along the intermediate sections to form a plurality of helixes and spirally intertwined for providing an upright support, and the lower sections of the wires extend outwardly from the upright support, for insertion into the base surface to the mount the wire support. Each lower section has a lower region extending generally transverse to the upright support for enabling an operator to apply a force to the lower region, and each of the lower sections terminates in a lower distal area extending generally parallel to the upright supports, for facilitating insertion of the lower section into the base surface. The upper section of the wires extends outwardly from the upright support for engaging with the object to support the object relative to the base surface. The upper and lower ends of the intermediate section appear to have straight portions (right before the twists veer out into the upper and lower sections, respectively).

Rieman does not disclose an upper section that terminates in an upper distal area that extends generally parallel to the upright support for insertion into an object. McCracken disclose a stand configured to be driven into a surface for supporting an object relative to a surface. The stand has a lower section, an intermediate section that forms an upright support, and an upper section. The upper section has an upper region extending outwardly from the upright support and terminates in an upper distal area extending generally parallel to the upright support for supporting an object upright relative to the support surface. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided the upper section of Rieman, with portions that are parallel to the upright support as taught by McCracken, for the purpose of supporting an object upright relative to the support surface. Applicant claims limitations to the object/sheet material, but the object/sheet material is not positively recited in the claims, and therefore the limitations carry no patentable weight.

#### ***Allowable Subject Matter***

Claims 39 and 42 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed July 16, 2007 have been fully considered but they are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them

from the references. Applicant states that there was no art cited by the Examiner specifically rejecting claim 46. However, claim 46 was rejected as unpatentable over Rieman in view of McCracken.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/S. M. M./

Examiner, Art Unit 3632

Steven M. Marsh

March 12, 2008

/Korie H. Chan/  
Korie H. Chan  
Primary Examiner  
Art Unit 3632

<b>Application Number</b> 	Application/Control No.	Applicant(s)/Patent under Reexamination
	10/692,037 Examiner STEVEN M. MARSH	LILES, JOHN KEVIN Art Unit 3632